

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 497 of 1981

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KARSANBHAI KACHRABHAI PATEL

Versus

PREMJIBHAI HARIBHAI PATEL

Appearance:

MR AJ PATEL for Petitioner
MR MUKUND M DESAI for Respondent No. 1
UNSERVED-EXPIRED (N) for Respondent No. 2
NOTICE SERVED for Respondent No. 4
MR MJ BUDDHBHATTI for Respondent No. 7
MR PM THAKKAR for Respondent No. 9
MR SR DIVETIA APP for Respondent No. 10

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 25/06/98

ORAL JUDGEMENT

Heard learned advocates for the parties.

This application under section 397 of the Criminal Procedure Code arises from the charge framed by the learned Metropolitan Magistrate, Ahmedabad, against the present respondents nos. 1 to 9. The present petitioner is the original complainant. He lodged a complaint on 25th August, 1979 to the effect that the petitioner was manufacturing washing powder in the name and style of "Nirma". The respondents nos. 1 to 4 were the partners in M/s. Patel Chemicals and the said firm also was manufacturing washing powder but of inferior quality. The said washing powder was packed in plastic bags having the trade mark of "Nirma". The said plastic bags were being manufactured by the respondents nos. 6 and 7 and the respondents nos. 5, 8 and 9 sold the said spurious powder under the trade mark of "Nirma" outside State of Gujarat. It was alleged that the respondents-accused had thus committed offences punishable under sections 420, 468 and 114 of the IPC and under sections 471, 78 and 79 of the Trade and Mercandise Marks Act, 1958 (hereinafter referred to as the Act). The learned Magistrate, on 29th June, 1981, framed charge against respondents nos. 1 to 4 and 6 and 7 for commission of offence punishable under section 78 of the Act; and against respondents nos. 5, 8 and 9 for commission of offence punishable under section 79 of the Act. A charge for commission of offence punishable under section 471 of the Act was also framed against the respondents nos. 1 to 4 and 5 to 8. Feeling aggrieved, the petitioner-complainant has preferred this Revision Application. It is the claim of the petitioner that the learned Magistrate has erred in not framing the charge against the respondents for commission of offences punishable under sections 420, 468 and 114 of the IPC.

The offence is alleged to have been committed in the year 1979. The charge was framed on 29th June, 1981. The present Revision Application was preferred on 17th September, 1981. On 18th September, 1981, the following order was made by this court :

"Rule. Relief in terms of para 7(B) granted "

In view of the above interim relief, further proceedings of the trial in Criminal Case No. 1565/80 registered against the present respondents has been stayed. The offence is alleged to have been committed in the year 1979. The trial has not proceeded further. Besides, I am informed that pending this application, the respondent no.2 has passed away. This application, therefore, requires to be dismissed on account of gross delay in

prosecuting this application. I do not consider it expedient to interfere with the charge framed by the learned Magistrate nearly 20 years from the date of commission of offence.

Application is, therefore, dismissed. Rule is discharged. Interim relief is vacated.

.....

JOSHI